

FEDERAL DEFENDER SERVICES OF WISCONSIN, INC.

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September 8, 2021

Honorable J.P. Stadtmueller
United States District Court
Eastern District of Wisconsin
517 E. Wisconsin Avenue
Milwaukee, WI 53202

RE: *United States v. Jeremiah Belen*
Case Nos. 20-CR-141 (JPS)

Dear Judge Stadtmueller:

Jeremiah Belen is a hardworking, loving, blue-collar husband and father. Last summer, a few months into the pandemic, he shined a laser pointer at aircraft flying over Milwaukee. That terrible decision led to the FBI searching his home and to his widely publicized arrest. At the time, he felt that his life was over.

But life goes on. And Mr. Belen, though he still struggles with remorse and guilt, moved forward. He has accepted responsibility for his offense, has found a good, supportive job, and has battled the stress and uncertainty of this case by strengthening his religious faith and his marriage. The plea agreement calls for the government to recommend a non-custodial sentence. So the defense now submits this memorandum, requesting a sentence of one year probation.

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Personal Background

Mr. Belen was born in Massachusetts, but is ethnically Puerto Rican. As the PSR notes, he has several siblings and his parents moved to the Milwaukee area when he was a toddler. He grew up on the city's south side and then, after his parents' relationship ended, in Racine. *See* Doc. 27 at ¶¶46-47.

His upbringing was difficult. Mr. Belen's parents were working class, and lived in areas where crime and drug use were common. When they divorced (his father got involved with a different woman and formed a new family), Mr. Belen stayed with his mother and their income plunged. That instability affected his family members, some more than others. For instance, his two older siblings became involved in gang life and went to prison when Mr. Belen was still a minor.¹

The move to Racine also came at a difficult time in Mr. Belen's life. He was one of the few Hispanic students, stood just 5'4" tall and weighed over 200 pounds. So he got teased and bullied. This led to the fights that make up his only prior record, from when he was 16 years old. *See id.* at ¶¶38-39. Mr. Belen was convicted of misdemeanors and served a period of probation. But these incidents left a mark. He dropped out of school, and enrolled in a GED program, and began working. Work soon took priority, with Mr. Belen wanting to aid his mother. He recalls that during this time, with him living at home and contributing to his mother's finances, she was able to purchase a house – the home she still lives in.

Around the same time, Mr. Belen met his wife, Marisol, through his involvement in church. Growing up, he belonged to a Pentecostal congregation. He served as a youth pastor there, helping set up services and playing the drums in the church band. Mr. Belen met Marisol at a Hispanic inter-church gathering; she worked as a youth minister in her family's church – Iglesia Genesis in Milwaukee's Riverwest neighborhood. Her father still serves as the pastor there.

¹ *See* Docket for *State v. Caraballo*, Case No. 1995CF316 (Milw. Cnty.), <https://wcca.wicourts.gov/caseDetail.html?caseNo=1995CF000316&countyNo=51&index=0&mode=details> (showing Mr. Belen's older brother's felony battery conviction); Docket for *State v. Belen*, Case No. 1996CF472 (Racine Cnty.), <https://wcca.wicourts.gov/caseDetail.html?caseNo=1996CF000472&countyNo=51&index=0&mode=details> (showing Mr. Belen's older sister's felony theft conviction).

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Mr. Belen and Marisol married young. Looking for better work options, they got career help from Esperanza Unida, a now-defunct nonprofit that provided work training to Spanish-speaking Milwaukee residents. Mr. Belen trained as a welder and metal fabricator, and Marisol trained customer service work. They have worked in those fields since, with Mr. Belen serving as a contract welder and Marisol as a customer service representative at Kohls.

As the presentence report notes, for many years Mr. Belen did contract work through a placement firm called Argus Technical Services, which focuses on trained specialty workers like engineers and welders. Doc. 27 at ¶73. This led to welding work on all sorts of projects. For instance, Mr. Belen recalls contract jobs for Case New Holland and Caterpillar, and welding balcony railings for condo developments in the Third Ward. But despite their two incomes, they've never been well off or even owned a home. For many years, they lived in the small apartment above Marisol's father's church.

They started their own family not long after they married. Their son, Jeremiah Jr., and daughter, Solimar, are now teenagers. Jeremiah is finishing his last few high school credits, and plays football as a lineman; Solimar goes to Wisconsin Lutheran High School and loves art. They have always lived close to Marisol's father's church, so their kids grew up in that organization. Over time, Marisol's extended family became Mr. Belen's primary family, especially with Mr. Belen's mother and younger sisters living in Racine. *See Picture Below.*



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The Offense Conduct

This offense occurred in June 2020. The COVID-19 pandemic had begun two months earlier, with millions of Americans getting laid off, including Mr. Belen. Then over Memorial Day weekend, Minneapolis police officer Derek Chauvin killed George Floyd by kneeling on his neck for nearly nine minutes, while a crowd of citizens watched and begged Chauvin to stop. When footage of Floyd's murder spread, protests erupted across the country.

The protests in Milwaukee centered around the Milwaukee Police Department's District 5 station, at the corner of Locust and MLK. Mr. Belen and his family live just a few blocks away to the northeast. So they had a front row seat to these passionate, sometimes violent, protests, which usually ran late into the night.² Law enforcement monitored these protests, using aerial surveillance conducted by the FBI and the National Guard. And these surveillance aircraft were often joined by news helicopters or private drones presumably flown by curious citizens. All in all, this led to a busy airspace above District 5, with an unusual number of lights moving through the night sky.

These lights interested Mr. Belen more than the protests themselves. (While he went to observe some protests, neither he nor his family members participated.) This is because Mr. Belen and his family were amateur stargazers. He owned a telescope and often would look at the moon or stars with his kids. According to his statements to the FBI and counsel and reports from his family, this is why he had a laser pointer. Stargazers commonly use laser pointers to direct a viewer's attention to certain objects in the sky or to focus a telescope.³

² See Milwaukee Journal Sentinel, *Blog recap: Coverage of Milwaukee's protest on Friday, May 29, 2020* (May 30, 2020), <https://www.jsonline.com/story/news/2020/05/29/milwaukee-protest-george-floyd-killing-live-27th-and-center/5284428002/> (noting "a large crowd gathered at the District 5 Milwaukee Police station" and police firing gas containers); Milwaukee Journal Sentinel, *Live protest updates: Milwaukee protest leader Frank Nitty opens up about Christian faith* (June 21, 2020) <https://www.jsonline.com/story/news/2020/06/15/milwaukee-protests-against-police-brutality-live-updates-marches/3190055001/> ("District 5 was the center of unrest in the city.").

³ See, e.g., Optotronics, *Astronomy Lasers*, <https://www.optotronics.com/astronomy-lasers.php> ("lasers help align the optical array of most modern day reflecting telescopes."); Big Lasers, *Astronomy Lasers*, <https://biglasers.com/products/astronomy-lasers/> ("laser pointers have been used for astronomy applications for over 2 decades").

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Unfortunately, in early June, Mr. Belen made a terrible decision. While standing on his porch late at night he knowingly pointed his laser at one of the lights flying through the night sky—an FBI surveillance aircraft. Mr. Belen knew the law prohibited shining lasers at aircraft and so knew that he was breaking the law at the time. So he knew that his actions were foolish, illegal, and dangerous. Yet evidence shows that he did this on at least two occasions—both times striking an FBI surveillance plane run by a special agent and a surveillance specialist. Each time, the plane and its crew were impacted, both by needing to pull away from their assigned task (monitoring the protests) and by the fear and danger created by Mr. Belen’s actions. And each time, the crew traced the laser back to the porch of Mr. Belen’s home. So when it occurred a second time, an FBI agent on the ground was waiting and saw Mr. Belen wielding the laser.

The Aftermath

The next day, the FBI executed a warrant at Mr. Belen’s home. He was arrested and ultimately confessed. His wife was handcuffed and questioned. Agents took property from his home. And his mugshot and warrant affidavit were made public.

In the midst of ongoing, nation-wide protests, his arrest made headlines in Milwaukee and across the country.⁴ Journalists noted his arrest in the same

⁴ Cody Miller, *Man faces federal charges after being arrested for aiming laser pointer at plane*, KSNV 3 (June 12, 2020), <https://news3lv.com/news/offbeat/man-faces-federal-charges-after-being-arrested-for-aiming-laser-pointer-at-plane>, (Las Vegas NBC affiliate reporting that: “[a] crime many Americans likely don’t know about landed a Wisconsin man in jail facing federal charges.”); CBS 58 Newsroom, *Milwaukee Man Charged with Aiming Laser at FBI Plane* (June 9, 2020) <https://www.cbs58.com/news/milwaukee-man-charged-with-aiming-laser-at-fbi-plane-national-guard-helicopter>; News Break, *Man Faces Federal Charges After Being Arrested for Aiming Laser Pointer at Plane* (June 12, 2020) <https://www.newsbreak.com/wisconsin/milwaukee/news/1583458020466/man-faces-federal-charges-after-being-arrested-for-aiming-laser-pointer-at-plane>; Mark Huber, *Aircraft Lasered During George Floyd Protests*, AIN Online (June 9, 2020) <https://www.ainonline.com/aviation-news/generalaviation/2020-06-09/aircraft-lasered-during-george-floyd-protests>; Bruce Vielmetti, *Feds charge Milwaukee Man with Pointing Laser at FBI, National Guard Aircraft Flying Over Protests* Milwaukee Journal Sentinel (June 8, 2020) <https://www.jsonline.com/story/news/crime/2020/06/08/milwaukee-man-charged-pointing-laser-helicopter-over-protests/5322196002/>; Sal Sendik, *Milwaukee Man Arrested for Pointing a Laser at FBI, National Guard Aircraft Flying Over Protests*, WTMJ-TV Milwaukee (June 9, 2020) <https://www.tmj4.com/news/local-news/milwaukee-man-arrested-for-pointing-a-laser-at-fbi-national-guard-aircraft-flying-over-protests>.

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articles describing arsonists and looters.⁵ Mr. Belen felt ashamed and humiliated, as did his family, and his arrest and prosecution have impacted his mental health ever since, which helps explain his handful of positive drug tests. But he also experienced deep remorse, knowing that he had harmed FBI staff and wasted their resources. As someone who deeply respects law enforcement, the idea that the FBI viewed him as a potential terrorist and that he had pulled agents away from their important duties was horrifying. *See Ex., Belen Apology Letter to the FBI.*⁶

Thankfully, no members of the flight crew were injured. The FBI did not find evidence that Mr. Belen was affiliated with any protest group, or that he intended to target law enforcement. And he and his family have sought to move forward, with Mr. Belen and Marisol spending more time praying together and him finding a more permanent job. (Mr. Belen is lucky to have employers who know about this case and support him. *See Doc. 27 at ¶71* (his employer describing Mr. Belen as “very reliable” with “good attendance” and a “great attitude”)).

Nevertheless, this case has had lasting consequences. MR. Belen had trouble finding work after his arrest. This drained the family’s savings, leading to one of their cars being repossessed. Moreover, the FAA levied an \$8,000 civil penalty against him, since shining a laser at an aircraft violates federal regulations. His wages will be garnished until the full amount is paid. His family’s prior goal – to save up enough to buy a home in the suburbs, closer to Marisol’s work – has been put on hold. And every day, Mr. Belen deals with the repercussions of committing a high profile crime in the digital era. Any internet search for his name returns page after page of articles detailing his offense, arrest, and prosecution.

⁵ *See, e.g.,* Gregg Re & Jake Gibson, *DOJ reveals striking details of riot arrests, including helicopter laser strikes and precinct arson*, Fox News (June 10, 2020) <https://www.foxnews.com/politics/doj-announces-federal-charges-against-rioters>; Oleg Burunov, *From Laser Pointing to Precinct Fire: DOJ Reportedly Files Scores of Charges Against Protesters*, Sputnik News (Nov. 6, 2020) <https://sputniknews.com/us/202006111079581683-from-laser-pointing-to-precinct-fire-doj-reportedlyfiles-scores-of-charges-against-protesters/>.

⁶ Defense counsel submitted this letter to the government on Mr. Belen’s behalf last month.

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Recommendation

The plea agreement calls for the government to recommend a non-custodial sentence, a recommendation that the defense joins. That resolution was reached after extensive discussion and consultation. What follows are a few of the factors that influenced the parties' decision.

The permanent and punitive nature of a felony conviction.

By pleading guilty in this matter, Mr. Belen is now a felon. This is a significant penalty, both in his view and in the view of the parties. Mr. Belen had been proud to *not* be a felon, unlike some members of his extended family, and he had exercised those corresponding rights. For instance, he is concerned about burglars and his family's safety, so had owned a firearm. Yet his Second Amendment rights are now gone, and Mr. Belen knows that finding work, housing, and credit will be much more difficult. The brand of being a felon will remain with him for the rest of his life, serving as ongoing punishment for a serious and dangerous offense.

Mr. Belen's otherwise limited record and positive family and professional life.

As shown by the PSR, Mr. Belen has no criminal record beyond two misdemeanor convictions stemming from fights he got into when he was just 16. His employment history reflects that he has benefited society through his work as a welder. In addition, he is a devoted husband and father, with an intact, long-term marriage and nuclear family. His immediate social circle, including his wife's parents and her siblings, is pro-social and remains supportive of him. These facts, combined with his age and current employment, all suggest that Mr. Belen is highly unlikely to reoffend.

The significant financial penalty imposed by the FAA

Mr. Belen also is being punished by the federal government outside of this case, through a civil penalty imposed by the FAA. That penalty is \$8,000, a large amount of money to anyone, but especially to Mr. Belen and his family. This penalty will be paid through the FAA garnishing Mr. Belen's wages, and thus reducing his and

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his family's income for years. That financial punishment affects the § 3553(a) analysis, and makes incarceration less necessary.

The advisory range produced by the sentencing guidelines

Relatedly, given Mr. Belen's minimal criminal history and the relatively low offense level in this case, the sentencing guideline range is zero to six months, and thus in Zone A. *See* Doc. 27 at ¶80. This means that incarceration is not demanded by the guidelines, and that the non-custodial recommendation noted in the plea agreement fits the sentencing guideline range. *See id.*

The highly deterring nature of Mr. Belen's arrest and prosecution

As noted above, Mr. Belen's arrest garnered significant attention in Milwaukee and across the country. It also occurred quickly after the second laser incident. These near-immediate and severe consequences have deterred Mr. Belen personally, have spread awareness of the law, and will thus deter others from engaging in similar behavior.

Conclusion

For the reasons explained above and others that will be noted at sentencing, the defense respectfully requests that the Court impose a sentence of one-year probation.

Thank you for your attention to this matter.

Respectfully submitted,

/s/ Anderson M. Gansner

AMG/lc